

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re

MARCIA CAMBIANO,

No. 04-12051

Debtor(s).

JORGE AGUIRRE,

Plaintiff(s),

v.

A.P. No. 04-1126

MARCIA CAMBIANO,

Defendant(s).

Memorandum of Decision

Plaintiff Jorge Aguirre and defendant Marcia Cambiano had a romantic relationship and had a child together, but are now estranged. While they were on better terms, they consolidated Cambiano's credit card debt into Aguirre's name and purchased a vehicle which was registered to Cambiano. In this adversary proceeding, Aguirre argues that Cambiano used fraud to get him to agree to these arrangements so that she owes him a nondischargeable debt pursuant to § 523(a)(2) of the Bankruptcy Code.

There is scant evidence as to the terms of the oral agreements Aguirre says Cambiano breached,


1 and no evidence at all that Cambiano ever intended to defraud Aguirre. The evidence is consistent only
2 with two people who once cared for each other but no longer have the same feelings. Aguirre has
3 completely failed to meet his burden of demonstrating fraud.

4 The court abstains from determining the ownership of the vehicle, as that issue is not necessary to
5 a determination of dischargeability and Cambiano claims no interest in the vehicle. If the parties cannot
6 figure out how to remove Cambiano from title the issue may be litigated in state court so long as no
7 monetary recovery is sought against Cambiano.

8 For the foregoing reasons, Aguirre shall take nothing by his complaint which will be dismissed,
9 with prejudice. Cambiano shall recover any costs of suit.

10 Dated: December 5, 2005

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26




Alan Jaroslovsky
U.S. Bankruptcy Judge

CERTIFICATE OF MAILING

The undersigned deputy clerk of the United States Bankruptcy Court for the Northern District of California hereby certifies that a copy of the attached document was mailed to all parties listed below as required by the Bankruptcy Code and Rules of Bankruptcy Procedure.

Dated: Dec 5, 2005


Dawn Passalacqua
Deputy Clerk

Jorge Aguirre
1788 Ralston Avenue
Richmond, CA 94805